

# Notice of Allowability

Application No.

10/530,810

Examiner

Joseph Kosack

Applicant(s)

BROWN ET AL.

Art Unit

1626

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Supplemental Amendment filed 11 August 2006.
2. ☒ The allowed claim(s) is/are 3 and 5-8.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |  |  |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 5. <input type="checkbox"/> Notice of Informal Patent Application                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9. <input type="checkbox"/> Other _____.   |

### **DETAILED ACTION**

Claims 3 and 5-8 are pending in the instant application.

#### ***Amendments***

The amendment filed July 26, 2006 and the supplemental amendment requested by the Examiner filed on August 11, 2006 have been acknowledged and have been entered into the record.

#### ***Previous Specification Objections***

The title of the invention was objected to in the action mailed April 6, 2006 as not being descriptive. Applicant has amended the title in line with the Examiner's suggestion and the objection is withdrawn.

#### ***Previous Claim Objections***

Claims 1-14, 22-42, and 44 were objected to in the action mailed April 6, 2006 for containing elected and non-elected subject matter. The non-elected subject matter has been cancelled and the objection is withdrawn.

#### ***Previous Claim Rejections - 35 USC § 112***

Claims 9-14, 22-42, and 44 were rejected in the action mailed April 6, 2006 for failing to meet the enablement requirement of 35 U.S.C. 112, first paragraph. Applicant has deleted the claims, rendering the rejection moot. Therefore, the rejection is withdrawn.

#### ***Previous Claim Rejections - 35 USC § 102***

Claims 1-3 and 6-8 were rejected in the action mailed April 6, 2006 under 35 U.S.C. 102 (a) and 35 U.S.C. 102(e) as being anticipated by Liu et al. (USPN

6,399,773). Applicant has amended the claims to exclude the compound of Liu et al. obviating the rejection. Therefore, the rejection is withdrawn.

### ***Previous Claim Rejections - 35 USC § 103***

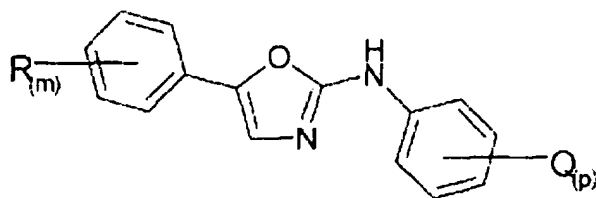
Claims 1-8 were rejected in the action mailed April 6, 2006 under 35 U.S.C. 103(a) as being unpatentable over Liu et al. (USPN 6,399,773). Applicant's arguments and amendments have been found to be persuasive to obviate the rejection. Therefore, the rejection is withdrawn.

### ***Previous Double Patenting Rejections***

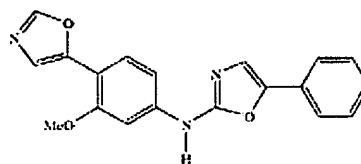
Claims 1-8 were rejected in the action mailed April 6, 2006 under nonstatutory obviousness-type double patenting as being unpatentable USP 6,399,773. Applicant's arguments have been found to be persuasive, and the rejection is withdrawn.

### ***Reasons For Allowance***

The present invention is drawn to compounds of the formula:



with substitutions as defined. The closest



prior art teaches compounds of the formula:

not teach the required sulfone linking the peripheral oxazole to the phenyl ring.

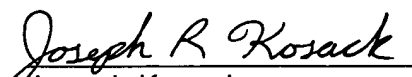
Therefore, claims 3 and 5-8 are allowed.

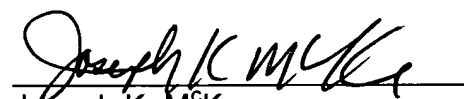
***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Kosack whose telephone number is (571)-272-5575. The examiner can normally be reached on M-F 5:30 A.M. until 2:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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Joseph Kosack  
Patent Examiner  
Art Unit 1626

  
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Joseph K. McKane  
Supervisory Patent Examiner  
Art Unit 1626